

United States District Court

for the

District of Alaska

Petition for Warrant or Summons for Offender Under Supervised Release

RECEIVED

MAY 27 2008

CLERK, U.S. DISTRICT COURT
ANCHORAGE, A.K.

Name of Offender: Shane C. Twigg

Case Number: 3:05-CR-0041-01 (RRB)

Sentencing Judicial Officer: Ralph R. Beistline, U.S. District Court Judge

Date of Original Sentence: November 29, 2006

Original Offense: Resisting a Federal Officer and Inflicting Bodily Injury

Original Sentence: 30 months jail, 12 months supervised release

Date Supervision Commenced: April 25, 2008

Asst. U.S. Attorney: Stephan Collins

Defense Attorney: Robert Herz

PETITIONING THE COURT

- ☒ To issue a warrant
☐ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervised release:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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- | | |
|---|--|
| 1 | The defendant has violated the Mandatory Condition of Supervision "The defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance," in that on May 18, 2008, the defendant committed the crime of Misconduct Involving a Controlled Substance (crack cocaine) in violation of Alaska Statute 11.71.040(A)(3)(9). This violation is a Grade B violation. |
| 2 | The defendant has violated the Mandatory Condition of Supervision "The defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance," in that on May 18, 2008, the defendant, a convicted felon, possessed a firearm in violation of 18 U.S.C. 922(g). This violation is a Grade B violation. |
| 3 | The defendant has violated the Standard Condition of Supervision 7, "The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substance, except as prescribed by a physician," in that on or about May 13, 2008, the defendant consumed cocaine as evidenced by a positive drug test. This violation is a Grade C violation. |

Petition for Warrant or Summons

Name of Offender : Sahne C. Twigg
Case Number : 3:05-CR-0041-01 (RRB)

- 4 The defendant has violated the Standard Condition of Supervision 7, "The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substance, except as prescribed by a physician," in that on or about May 13, 2008, the defendant consumed methamphetamine as evidenced by a positive drug test. This violation is a Grade C violation.
- 5 The defendant has violated the Standard Condition of Supervision 9, "The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer," in that on May 18, 2008, the defendant was in a vehicle with Duane Dollison (DOB:08/02/1962) who is a convicted felon. This violation is a Grade C violation.
- 6 The defendant has violated the Standard Condition of Supervision 7, "The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substance, except as prescribed by a physician," in that on or about May 10, 2008, the defendant consumed alcohol to intoxication as self admitted on May 12, 2008. This violation is a Grade C violation.

The term of supervised release should be:

☒ Revoked
☐ Extended for _____ year(s), for a total term of _____ years.

☐ The conditions of supervised release should be modified as follows:

Respectfully submitted,

Redacted Signature

Travis Lyons
U.S. Probation/Pretrial Services Officer
Date: May 27, 2008

Petition for Warrant or Summons

Name of Offender : Sahne C. Twigg
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Approved by:

REDACTED SIGNATURE

Eric D. Odegard
Supervising U.S. Probation Officer

THE COURT ORDERS

- ☒ The **WARRANT FOR ARREST** be delivered to the U.S. Marshal's Service; and the petition, probation officer's declaration, and a copy of the warrant shall be sealed in the Clerk's file and disclosed only to the U.S. Attorney for their official use, until the arrest of the offender. The petition for supervised release revocation is referred to the Magistrate Judge for initial appearance/preliminary hearing(s). The evidentiary hearing, if any, will be before the Magistrate Judge only upon consent; otherwise the evidentiary hearing will be before the undersigned District Court Judge.
- ☐ The issuance of a summons. The Petition for Supervised Release revocation is referred to the Magistrate Judge for initial appearance/preliminary hearing(s). The evidentiary hearing, if any, will be before the Magistrate Judge only upon consent; otherwise the evidentiary hearing will be before the undersigned District Court Judge.
- ☐ Other:

REDACTED SIGNATURE

Ralph R. Beistline
U.S. District Court Judge

Date

May 27, 2008

Supervised Release Cases: Pursuant to 18.U.S.C. § 3401(I), the sentencing District Court may designate a Magistrate Judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the Court proposed findings of facts and recommendations, including disposition recommendations.

Probation Cases: Pursuant to *United States v. Frank F. Colacurcio*, 84 F.3d 326, a Magistrate Judge has the authority to conduct a probation revocation hearing **only if** the following three conditions are satisfied: (1) the defendant's probation was imposed for a misdemeanor; (2) the defendant consented to trial, judgment, and sentence by a Magistrate Judge; and (3) the defendant initially was sentenced by a Magistrate Judge. Therefore, a District Court **may not** designate a Magistrate Judge to conduct revocation hearings on probation cases where a District Court was the sentencing Court.

United States District Court **RECEIVED**
for the MAY 27 2008
DISTRICT OF ALASKA CLERK, U.S. DISTRICT COURT
ANCHORAGE, A.K.

UNITED STATES OF AMERICA)

vs.)

Shane C. Twigg)

Case Number: 3:05-CR-0041 (RRB)

DECLARATION IN SUPPORT OF PETITION

I, Travis Lyons, am the U.S. Probation Officer assigned to supervise the Court-ordered conditions of Supervised release for Shane C. Twigg, and in that capacity declare as follows:

On November 29, 2006, the defendant was sentenced to 30 months jail and 12 months supervised release for Resisting a Federal Officer and Inflicting Bodily Injury. The defendant started his term of supervised release on April 25, 2008. Some of his conditions of release were that he obtain a mental health assessment and comply with any recommended treatment program, not possess/consume illegal drugs, not consume alcohol to intoxication, not associate with any convicted felons unless granted permission to do so by his probation officer, and commit no new local, state, or federal crimes.

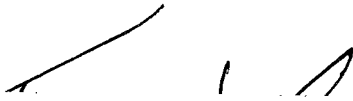
On or about May 18, 2008, the defendant was involved in a traffic stop by the Anchorage Police Department (APD). The defendant was the front-seat passenger and as police were approaching, was witnessed to be reaching under his feet/seat. A subsequent search of that part of the vehicle revealed a firearm and several small, individually wrapped, rock-like substances believed to be crack cocaine. Also in the vehicle was Dewane Dollison Sr. (DOB: 08/02/62) who is a known convicted felon. The defendant was arrested and charged with Misconduct Involving a Weapon 3rd Degree and Misconduct Involving a Controlled Substance.

In addition to his arrest, on May 12, 2008, the defendant admitted to consuming alcohol to intoxication/black out on or about May 10, 2008.

On May 13, 2008, the defendant provided a urine sample that indicated positive for the presence of methamphetamine and cocaine. This sample was sent to Kroll Laboratories and confirmed positive for those substances on May 17, 2008.

Executed this 27th day of May, 2008, at Anchorage, Alaska, in conformance with the provisions of 28 U.S.C. § 1746.

I declare, under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.



REDACTED SIGNATURE

Travis Lyons
U.S. Probation Officer
District of Alaska